PART IV

Section 1-A

CENTRAL BILLS AND REPORTS OF SELECT COMMITTEES THEREON

NOTIFICATION.

(LAW DEPARTMENT)

No. LAW 59 LCA 66, Bangalore, dated 9th November 1966.

Ordered that the Industrial Disputes (Amendment) Bill, 1966 (Bill No XVIII of 1966) which has been published in the *Gazette of India*, Extraordinary, Part II, Section 2, dated the 6th September 1966, be republished in the *Mysore Gazette*, for general information.

By Order and in the name of the Governor of Mysore,

H. K. ANANTHASUBBA RAO,
Under Secretary to Government, L. D.

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RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 6th September, 1966.—

BILL NO. XVIII OF 1966.

A Bill further to amend the Industrial Disputes Act, 1947.

BE it enacted by Parliament in the Seventeenth Year of the Republic of India as follows.—

1. Short title and commencement.—(1) This Act may be called the Industrial Disputes (Amendment) Act, 1966.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Amendment of section 2.—In section 2 of the Industrial Disputes Act, 1947 (14 of 1947) (hereinafter referred to as the principal Act),—

(*a*) in sub-clause (*i*) of clause (*a*), for the words "the Employees' State Insurance Corporation established", the words and figures "the Industrial Finance Corporation of India established under section 3 of the Industrial Finance Corporation Act, 1948 (15 of 1948), or the Employees' State Insurance Corporation established" shall be substituted;

(*b*) after clause (*g*), the following clause shall be inserted, namely.—

'(*gg*) "executive", in relation to a trade union, means the body, by whatever name called, to which the management and the affairs of the trade union is entrusted';

(*c*) after clause (*ll*), the following clause shall be inserted, namely:—

'(*lll*) "office bearer", in relation to a trade union, includes any member of the executive thereof, but does not include an auditor,';

(*d*) in clause (*n*), after sub-clause (*i*), the following sub-clause shall be inserted, namely:

"(*ia*) any service in, or in connection with, the working of, any major port or dock;".

3. Insertion of new section 10 B.—After section 10A of the principal Act, the following section shall be inserted, namely:—

"**10B. Power of Labour Courts, Tribunals and National Tribunals to give appropriate relief in case of discharge or dismissal of workman.**—Where an industrial dispute relating to the discharge or dismissal of a workman has been referred to a Labour Court, Tribunal or National Tribunal for adjudication and, in the course of the adjudication proceedings, the Labour Court, Tribunal or National Tribunal, as the case may be, is satisfied that the order of discharge or dismissal was

not justified, it may, by its award, set aside the order of discharge or dismissal and direct reinstatement of the workman on such terms and conditions, if any, as it thinks fit, or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require :

Provided that in any proceeding under this section, the Labour Court, Tribunal or the National Tribunal, as the case may be, shall rely only on the materials on record and shall not take any fresh evidence in relation to the matter.".

4. Amendment of section 33.—In the *Explanation* to sub-section (3) of section 33 of the principal Act, for the words "an officer", the words "a member of the executive or other office bearer" shall be substituted.

5. Amendment of section 36.—In sub-section (1) of section 36 of the principal Act, for the words "an officer", wherever they occur, the words "any member of the executive or other office bearer" shall be substituted.

Statement of objects and Reasons.

In Indian Iron and Steel Company Limited and another v. their workmen (AIR 1958 S. C. 130 at 138), the Supreme Court, while considering the Tribunal's power to interfere with the management's decision to dismiss, discharge or terminate the services of a workman, has observed that in cases of dismissal on misconduct, the Tribunal does not act as a court of appeal and substitute its own judgment for that of the management and that the Tribunal will interfere only when there is want of good faith, victimisation, unfair labour practice, etc., on the part of the management.

2. The International Labour Organisation, in its recommendation (No. 119) concerning "Termination of employment at the initiative of the employer" adopted in

June, 1963, has recommended that a worker aggrieved by the termination of his employment should be entitled to appeal against the termination, among others, to a neutral body such as an arbitrator, a court, an arbitration committee or a similar body and that the neutral body concerned should be empowered to examine the reasons given in the termination of employment and the other circumstances relating to the case and to render a decision on the justification of the termination. The International Labour Organisation has further recommended that the neutral body should be empowered (if it finds that the termination of employment was unjustified) to order that the worker concerned, unless reinstated with unpaid wages, should be paid adequate compensation or afforded some other relief.

3. In accordance with these recommendations, it is considered that the Tribunal's power in an adjudication proceeding relating to discharge or dismissal of a workman should not be limited and that the Tribunal should have the power, in cases wherever necessary, to set aside the order of discharge or dismissal and direct reinstatement of the workman on such terms and conditions, if any, as it thinks fit or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require. For this purpose, a new section 10 B is proposed to be inserted in the Industrial Disputes Act, 1947.

4. Opportunity has been availed of to make (as in the case of other financial corporations) the Central Government as the appropriate government in relation to industrial disputes concerning the Industrial Finance Corporation, also and to declare service in major ports and docks as public utility service.

NEW DELHI;
The 17th August, 1966.

JAGJIVAN RAM.

FINANCIAL MEMORANDUM.

Clause 3 of the Bill seeks to widen the powers of Labour Courts, Industrial Tribunals and National Tribunals, in adjudication proceedings under section 10 of the Industrial Disputes Act, 1947, to review orders of dismissals and discharges of workmen, and also to determine, as may be just and necessary, any less severe punishment than the order of dismissal or discharge in question, in any particular case The extra time required for the purpose of review of the cases by the adjudicating bodies like Labour Courts, etc., is not likely to be appreciable as even at present, the parties may be presenting facts and merits of the cases before such adjuidcating bodies. It is proposed to manage, as far as possible, the probable increase in work-load with the existing complement of adjudication machinery. Hence, the provision is not likely to involve any appreciable additional expenditure immediately or in the near future. In any case, the extra expenditure, which will be of recurring nature, is not expected to exceed Rs. 15,000 per annum.

B. N. BANERJEE,
Secretary.

Printed by the Director of Printing, Sty. & Publications at the Govt. Press, B'lore.

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